

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES PAUL ANDREW TORFASON,
Plaintiff,
v.
WELLPATH,
Defendants.

Case No. [22-cv-03458-JSW](#)

**SECOND ORDER OF SERVICE;
DENYING MOTION FOR EXTENSION
OF TIME**

Re: Dkt. No. 17

The Clerk issued summons, and the Marshal was unable to serve Defendant Wellpath at a San Diego address provided by Plaintiff. Plaintiff has provided a new address for Wellpath. (ECF No. 21.) Service will be attempted at the new address. If service cannot be accomplished at that address, the case may be dismissed under Rule 4(m) of the Federal Rules of Civil Procedure for lack of service unless Plaintiff shows cause why not.

1. The Clerk shall issue a summons and the United States Marshal shall serve, without prepayment of fees, the summons, a copy of the amended complaint (ECF No.13) with all attachments thereto, and a copy of both the prior Order of Service (ECF No. 5) and this order on Wellpath at 3340 Perimeter Hill Drive, Nashville, TN, 37211.

2. Defendant **shall** file an answer in accordance with the Federal Rules of Civil Procedure.

4. In order to expedite the resolution of this case:

a. No later than **91 days** from the date this order is filed, the remaining defendants, including those who have been ordered served above, shall file a motion for summary judgment or other dispositive motion. If defendants are of the opinion that this case cannot be resolved by summary judgment, they shall so inform the court prior to the date the summary judgment motion is due. All papers filed with the court shall be promptly served on the plaintiff.

b. Plaintiff's opposition to the dispositive motion, if any, shall be filed with the

1 court and served upon defendants no later than **28 days** from the date of service of the motion.
2 Plaintiff must read the attached page headed "NOTICE -- WARNING," which is provided to him
3 pursuant to *Rand v. Rowland*, 154 F.3d 952, 953-954 (9th Cir. 1998) (en banc), and *Klinge v.*
4 *Eikenberry*, 849 F.2d 409, 411-12 (9th Cir. 1988).

5 c. Defendants **shall** file a reply brief no later than **14 days** after the date of service
6 of the opposition.

7 d. The motion shall be deemed submitted as of the date the reply brief is due. No
8 hearing will be held on the motion unless the court so orders at a later date.

9 e. Along with his motion, defendants shall file proof that they served plaintiff the
10 *Rand* warning at the same time they served him with their motion. Failure to do so will result in
11 the summary dismissal of their motion.

12 5. All communications by the plaintiff with the court must be served on defendants, or
13 defendants' counsel once counsel has been designated, by mailing a true copy of the document to
14 defendants or their counsel.

15 6. Discovery may be taken in accordance with the Federal Rules of Civil Procedure. No
16 further court order under Federal Rule of Civil Procedure 30(a)(2) or Local Rule 16-1 is required
17 before the parties may conduct discovery.

18 7. It is the plaintiff's responsibility to prosecute this case. Plaintiff must keep the court
19 informed of any change of address and must comply with the court's orders in a timely fashion.
20 Failure to do so may result in the dismissal of this action for failure to prosecute pursuant to
21 Federal Rule of Civil Procedure 41(b).

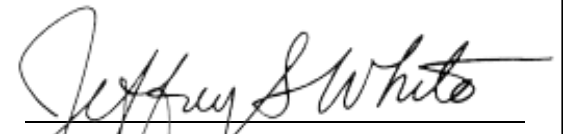
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1 8. Plaintiff's motion for an extension of time is DENIED as unnecessary. If Plaintiff
2 wishes to name any "Doe" defendants, he may seek to do so by filing a motion for leave to file a
3 Second Amended Complaint with a proposed Second Amended Complaint that includes any
4 newly named defendants.

5 **IT IS SO ORDERED.**

6 Dated: January 18, 2024

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9 JEFFREY S. WHITE
10 United States District Judge
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